

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

US FRESH CORP.,

Plaintiff,

-v.-

BANANA KING DISTRIBUTOR LLC and  
ELIECER MONTOYA, *individually and in  
any corporate capacity,*

Defendants.

21 Civ. 10256 (KPF)

**DEFAULT JUDGMENT**

KATHERINE POLK FAILLA, District Judge:

Upon consideration of Plaintiff's motion for entry of a default judgment against the Defendants Banana King Distributor LLC and Eliecer Montoya, the Declaration of Timothy J. Fierst, Esq., dated February 10, 2022, the Declaration of Lee Pakulsky dated February 10, 2022, and the exhibits annexed thereto, the Memorandum in Support of Plaintiff's Motion for Default Judgment Against Defendants Banana King Distributor LLC and Eliecer Montoya, and upon a hearing of the Plaintiff's motion held on April 22, 2022, hearing Timothy J. Fierst, Esq. in support of the motion and no one appearing in opposition thereto, and it appearing to the Court that the Defendants Banana King Distributor LLC and Eliecer Montoya have failed to plead or otherwise defend in this action; and that a principal balance in the amount of \$19,102.50 is alleged due plaintiff US FRESH CORP., pursuant to the parties' contract, and that Plaintiff has the right to recover against Defendants Banana King Distributor LLC and Eliecer Montoya, jointly and severally, pursuant to

Section 5(c) of the Perishable Agricultural Commodities Act, 7 U.S.C. §499(e)(a-c) ("PACA"), it is hereby:

**ORDERED**, that Plaintiff's motion for entry of a default judgment be, and the same is hereby granted and it is further

**ORDERED, ADJUDGED AND DECREED**, that judgment is hereby entered in favor of Plaintiff, US FRESH CORP., 601 Drake Street, Bronx, NY 10474, and against BANANA KING DISTRIBUTOR LLC, 149 10<sup>th</sup> Street, Passaic, NJ 07055; in favor of Plaintiff US FRESH CORP. 601 Drake Street, Bronx, NY 10474, and against ELIECER MONTOYA, 149 10<sup>th</sup> Street, Passaic, NJ 07055 jointly and severally, in the amount of \$19,102.50; together with pre-judgment interest in the amount of \$8,596.20, attorneys' fees in the amount of \$3,000.00 and costs in the amount of \$402.00, in the total judgment amount of \$31,100.70 jointly and severally and Plaintiff have execution therefor; and it is further

**ORDERED, ADJUDGED AND DECREED** that the stay imposed by Fed. R. Civ. P. 62 (a) is hereby vacated, Plaintiff may immediately execute upon this judgment and the Clerk shall immediately issue an abstract of judgment upon Plaintiff's proper application therefor.

**ENTERED**, this 25<sup>th</sup> day of April, 2022



KATHERINE POLK FAILLA  
United States District Judge